

**MINUTES
of the
FOURTH MEETING
of the
LAND GRANT COMMITTEE**

**September 6-7, 2007
Chama Village Hall Gymnasium
Chama, New Mexico**

The fourth meeting of the Land Grant Committee (LGC) for the 2007 interim was called to order by Representative Miguel P. Garcia, chair, on Thursday, September 6, 2007, at 10:16 a.m. in the gymnasium of the Chama Village Hall in Chama.

Present

Rep. Miguel P. Garcia, Chair
Sen. Richard C. Martinez, Vice Chair
Sen. Rod Adair
Rep. Jimmie C. Hall
Rep. Debbie A. Rodella

Absent

Sen. Joseph J. Carraro
Rep. Justine Fox-Young
Rep. Manuel G. Herrera
Sen. Gerald Ortiz y Pino
Sen. James G. Taylor

Advisory Members

Rep. Paul C. Bandy
Sen. Carlos R. Cisneros
Rep. Thomas A. Garcia (9/6)

Rep. Ben Lujan
Sen. Phil A. Griego
Sen. Bernadette M. Sanchez
Sen. William E. Sharer
Rep. Eric A. Youngberg

(Attendance dates for members not present for both days of the meeting are in parentheses.)

Staff

Jon Boller
Kate Ferlic
Tamar Stieber

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Thursday, September 6

Welcome, Invocation and Introductions

Speaking in Spanish and English, Representative Miguel P. Garcia welcomed some 35 audience members to the LGC meeting. Committee members and staff introduced themselves following an invocation.

Representative Miguel Garcia explained that he is a land grant heir. He told the audience that the New Mexico Legislature worked with "people like yourself" to establish the LGC to help heirs uphold their right to defend the Treaty of Guadalupe Hidalgo. He urged land grants to register with the secretary of state as political subdivisions of the state, which he explained gives land grants the opportunity to buy back property within their boundaries at delinquent tax sales and prohibits adverse possession lawsuits against them. He thanked the Village of Chama for hosting the committee and providing breakfast and lunch. He recognized Chama Mayor Archie Vigil, who welcomed the committee and guests to the village, and Rio Arriba County Commissioner Felipe Martinez.

Commissioner Martinez said the Tierra Amarilla Courthouse raid in 1967 "is to Chicanos what Bloody Sunday is to black Americans (sic). It is also to Chicanos what Wounded Knee is to Native Americans". He described the land grant movement as a "profound awakening that has inspired generations of New Mexicans". He said the movement crossed into Colorado, where the Sangre de Cristo Land Grant got a favorable court ruling allowing heirs to access traditional lands for traditional purposes.

Stating that New Mexico is fortunate to have the only legislative committee in the nation devoted to land grant issues, Commissioner Martinez challenged the LGC to get funding for the Attorney General's Office (AGO) to complete its response to the federal General Accountability Office (GAO) report entitled, "Treaty of Guadalupe Hidalgo: Findings and Possible Options Regarding Longstanding Community Land Grant Claims in New Mexico". He said the report will not bring land grants any justice nor address the "chicanery and corruption by elected officials at the state and national level".

Representative Miguel Garcia said Attorney General Gary King told the LGC at its August 20 meeting in Truchas that he has budgeted \$20,000 to finish the AGO's response to the GAO report and hopes to hire attorney David Benavides to do the work. He said Attorney General King has also proposed to the Legislative Finance Committee (LFC) a \$500,000 budget item to fund the AGO's Guadalupe Hidalgo Treaty Division, which will deal only with land grant issues, and that LGC members will lobby before the LFC this year to enforce the importance of the Guadalupe Hidalgo Treaty Division. He added in Spanish that *mercedes* have rights against the federal Bureau of Land Management (BLM) and the United States Forest Service (USFS), which he said have encroached on land grant property. He said many land grants lost property "due to inaccurate surveys that the Forest Service and the BLM did in their early years, when they established their rights over our common lands".

Chama Valley Chamber of Commerce (CVCOC)

CVCOC President Bob Dela Hunt said his family has been in New Mexico for more than 300 years and was a land grant recipient. He said land grants were not simply rewards for good deeds done, but provided settlers with protection, and especially commerce, which gave rise to the railroad, the timber and mining industries and raising cattle. Today, he said, Chama's economy depends on agriculture, hunting, tourism, government and the oil and gas industry. He said 135 businesses belong to the local chamber of commerce.

Representative Miguel Garcia asked Mr. Dela Hunt if the area has seen an increase or decrease in agriculture, specifically "sheep herding and cow herding". Mr. Dela Hunt said agriculture has remained fairly stable in Chama, at least over the last 26 years. To a large extent, he said, larger pieces of land are still dedicated to agriculture.

Representative Hall asked who the largest employer is and where the Cumbres and Toltec Railroad, which he described as a "state jewel", fits into the area's economy. Mr. Dela Hunt said tourism is probably the largest industry in the area, with hunting as the number one draw followed closely by the railroad, which he said "actually experienced a profit" this year.

Representative Miguel Garcia asked how new subdivisions are affecting the harmony of the community at large. CVCOC Manager Rose Martinez said the chamber of commerce makes every effort to stay neutral on those sorts of issues. Representative Rodella suggested raising the issue with the county commissioners, including whether they are considering any new subdivisions.

BLM

Sam DesGeorges, manager of the BLM's Taos Field Office, apologized for the absence of Linda Rundell, state director for the BLM, whom the committee invited to the meeting. He said Ms. Rundell was meeting with her boss in Phoenix and that he would speak in her stead to address broadly how federal decision-making relates to BLM land use and management and how the BLM disposes of land. Land-use planning drives both issues, as it does for cities, counties or other agencies, he said. He distributed a pamphlet called "A Desk Guide to Cooperating Agency Relationships, 2005" to committee members. He also invited them to look at the BLM's 1988 "Taos Resource Management Plan" online or on a disc that his office can provide. He said the plan is being updated; the new version should be ready in two to three years.

Mr. DesGeorges explained that BLM land-use decisions are influenced by its interaction with the public, or "scoping", which typically involves public meetings that focus on:

- land ownership, including public lands available for disposal and public lands that a community might want to acquire;
- transportation and access, including roads and vehicles;
- mineral uses, including oil and gas development and sand and gravel resources;
- cultural and recreational resources;
- land uses, such as cemeteries, rights of way for power lines, water facilities, etc.; and
- "visual resource management", i.e., where things are in the landscape.

Mr. DesGeorges said that stakeholders "in many cases are not on the same page" with regard to those issues. The agency attempts to balance different perspectives when it draws up its long-range plans for public land, he said, with the majority of decisions made locally.

Mr. DesGeorges said land earmarked for disposal usually falls into one of the following categories:

- areas identified for future development;
- small tracts — 40 to 80 acres, e.g. — with no public access; and
- areas with special value that the public thinks should be managed in the public interest, such as wild and scenic rivers.

He said the BLM invites counties, municipalities and other agencies to participate in the agency's land-use planning process as "cooperators". Land grants with political subdivision status would have the same opportunity, he said. He referred to the pamphlet he distributed earlier and passed out another on the Recreation and Public Purpose Act, which he said describes the methods by which the BLM can provide federal land to communities or nonprofit organizations either at reduced prices or for free.

Representative Miguel Garcia said the state has made headway in upholding the Treaty of Guadalupe Hidalgo through "concrete action", including giving land grants the right of first refusal to buy state-owned property within their borders and to bid at public auction for privately owned land within their borders that has been put up for sale because of tax delinquency. He said he would like similar agreements with the BLM, which he said owns a lot of common land, some of which is in dispute.

"Some of these dispute areas are boundaries that the BLM still clings to knowing darn well that the boundaries were made inappropriately", Representative Miguel Garcia said. "But you still manage common land without regard to the people who owned it before the BLM took it over. Then there are initiatives going on that are upsetting to the environment, to the cultural traditions of the community, that totally discredit our families and communities. You're bringing in recreation activities that totally turn the community upside down".

Representative Miguel Garcia said BLM control of common lands has resulted in desecration of *campo santo* (cemeteries) because people tread over grave sites or because communities can no longer access the cemeteries. He invited Representative Bandy to suggest some different approaches the BLM might take in working with land grants.

Representative Bandy said he has grazed cattle on BLM land for 30 years and has "fought like hell with the BLM and worked cooperatively with the BLM at different times and on different issues". He said he is encouraged at the prospect of making land grants cooperating agencies, and that registering as political subdivisions of the state will give land grants status in the BLM's land decisions.

Noting that common lands have historically provided resources for members to graze cattle, harvest firewood and vigas, gather medicinal plants and engage in other traditional uses of the land, Representative Bandy said he thinks the BLM can agree to allow land grant heirs the same uses on BLM-managed areas that the state certifies as being part of a land grant. He said he thinks that sort of agreement could be made administratively rather than through an act of Congress and that it would be "great" for both the land grants and for the BLM to have local participation in land management and decision-making.

"I think everybody would be happier", he said, adding that the state would certify the elected representatives of land grants registered as political subdivisions "so you know who you're dealing with". Mr. DesGeorges said he thinks Representative Bandy's suggestions could be handled administratively and that the BLM takes pride in dealing directly with the community.

Representative Miguel Garcia asked what steps the committee should take to set those agreements in motion. Mr. DesGeorges said the BLM needs to know who the land grant board members are, who their representatives are and that any discussions or decisions will be made at a local level. This prompted Representative Miguel Garcia to castigate the BLM for allowing its agents to show up at meetings with land grant representatives "toting six-shooters".

"What does that say to the land grant — that we're willing to meet with you, but with armed agents? People in land grant communities are law-abiding and god-fearing", he said. "They may sound mean, but they won't raise a finger to hurt anybody".

Representative Miguel Garcia said the BLM has to make an "attitudinal change" to negotiate with land grant leaders and boards of trustees on a friendly basis. That will happen through "actions, sincerity and understanding history", he said, and not by "pass[ing] the buck". He said federal agencies like the BLM and "*las forestas*" (the USFS) give land grant communities "big-time headaches" because they still own a part of the commons. "That's why people are destitute — because you own the common lands", he said.

Saying "ditto to all the chairman's remarks", Representative Rodella asked for an update on the proposed Fun Valley all-terrain vehicle (ATV) recreational park in the Truchas Land Grant. Mr. DesGeorges said the BLM is looking to scale down the project and change its name — perhaps to El Palacio. He said the BLM has had informal discussions on the project with the land grant representatives and said he is offering an "open invitation to any of the land grant representatives to sit at the table with us".

"I would at least hope you will let them know when you have meetings so they can be at that table", Representative Rodella replied. She also wanted to know what the LGC can do to expedite a proposed land transfer between the BLM and the Santa Cruz de la Cañada Land Grant and expressed frustration that the transaction is taking so long to complete. Mr. DesGeorges said he is not familiar with the land transfer, but that he would like to know more about it. Representative Rodella also said she is concerned that land grants are not being consulted about

a proposed wildlife conservation area near Questa and requested that the BLM consult affected land grants. Mr. DesGeorges said that U.S. Senator Jeff Bingaman, who has proposed legislation for the conservation area, and his staffers have been discussing the issue with land grants.

Representative Rodella said she has received numerous calls from constituents who have been fined for fishing in Pilar. She said they paid \$5.00 for their fishing permits, then received \$100 fines for parking in a BLM lot. Mr. DesGeorges said that volunteers issued the fines in error and the BLM sent out letters of apology.

Senator Martinez also called for a progress report on the proposed Fun Valley ATV park and said he plans to oppose it "if it continues on the same projected flight". He also complained about land transfers taking so long and that, as a result, two schools could not be built in Alcalde because construction costs doubled in the six years it took to complete the transaction. Mr. DesGeorges said that the school district chose to complete the land transfer through Congress rather than administratively through the BLM, and thus it took longer. Senator Martinez replied that the school board chose to go through Congress because the BLM was "not moving the ball". He said county officials have complained to him that it takes twice as long to get results from Taos than from any other BLM field office.

Representative Miguel Garcia recognized former Rio Arriba County commissioner and long-time land grant activist Moises Morales, saying he "applaud[s] his efforts in that area".

Representative Hall asked what provisions the BLM has made for heirs to the Abiquiú Land Grant to get to their cemetery between Abiquiú Lake and Christ in the Desert Monastery. Mr. DesGeorges said he thinks that is USFS, and not BLM, land. Representative Hall also wanted to know if the BLM can return land to a land grant without receiving compensation. Mr. DesGeorges said the BLM requires compensation and that the price depends upon its fair market value. He added that there are "complexities" in transferring common lands now managed by the BLM and that doing so requires adhering to the 1976 Federal Land Policy and Management Act (FLPMA). Those decisions are made at the national level, he said.

"Land grants lose again", Representative Hall replied. "Most [heirs] don't have the means to travel and participate in national discussions". Saying that "outside interests are getting preference at the table...and land grants are updated later", he told Mr. DesGeorges that the BLM must include land grants in discussions because they are political subdivisions of the state. Noting that he is not part of a land grant, Representative Hall stressed that he, along with the rest of the committee, nonetheless is dedicated to equity for land grants. "We need to get across to your boss and her bosses in Washington how important this issue is to us and to make some real headway in getting things done".

Representative Hall reinforced Senator Martinez's comments about the BLM's Taos Field Office, saying, "I work with ranchers throughout the state and the Taos office is the one with the worst reputation for giving [priority] to outsiders".

Representative Thomas Garcia requested copies of the BLM's Code of Federal Regulations so the committee can understand the land transfer process, i.e., the various processes by which the agency may transfer land, who the stakeholders are and the chain of transfer, including who gets priority and the right of first refusal. He also requested a copy of Senator Bingaman's draft bill for the proposed wildlife conservation area near Questa.

Senator Cisneros asked if the BLM has considered opening field offices closer to Española and other more populated areas within the Taos Field Office's jurisdiction. Mr. DesGeorges said that "desire is one thing, money is another". Mr. DesGeorges' responses to additional questions from Senator Cisneros were as follows:

- the proposed wildlife conservation area encompasses about 218 acres and has no water rights;
- the proposed Fun Valley ATV park will probably be smaller than originally thought and have a different name — perhaps "El Palacio special recreation area", which he said is more in keeping with the local "ethic"; and
- the BLM is "quite frankly...at a loss of what to do" to prevent abuse of the ATV park that could cause erosion and interfere with runoff. The only way to tackle the issues, he said, is through education because the BLM does not have the staff to patrol the area.

Senator Cisneros said he is concerned that restrictions and fees resulting from designating lands as conservation or recreational areas will result in the demise of grazing and other traditional agricultural uses of the land. He suggested offering assistance to "local folks" who cannot afford to pay even \$3.00 for a fishing license. Mr. DesGeorges said he has no authority over fees, but suggested that people can do volunteer work — pick up trash, thin brush, work on trails, etc. — in exchange for free access.

Representative Bandy made a motion, seconded by Senator Martinez, to direct staff to draft a letter to the BLM and to the New Mexico congressional delegation requesting that they meet with leaders of the New Mexico Land Grant Council to offer workshops and seminars in different areas of northern and central New Mexico to explain how, as political subdivisions of the state, they can become a cooperating agency with the BLM for the purposes of land use and management. The motion passed unanimously.

Representative Miguel Garcia asked Mr. DesGeorges to meet with Arturo Archuleta of the New Mexico Land Grant Council and Juan Sanchez of the Chililí Land Grant to get the word out to the land grants and to his bosses.

Representative Miguel Garcia invited comments from the audience. Mr. Morales said the \$20.00 that the BLM charges per cord of firewood is too much and it should offer the wood for free; that dealing with the BLM and the USFS on grazing issues has been a "nightmare"; and that new subdivisions are taking away what little water is left in New Mexico.

Mr. DesGeorges responded that the BLM usually charges \$10.00 a cord for firewood — more if the agency cuts and stacks it; that some of the grazing permits the BLM manages in and around Chama "have been held by the same families forever"; and that, as far as he knows, his field office has done nothing to abuse grazing permits.

John Chavez of the Santa Cruz de la Cañada Land Grant was skeptical at Mr. DesGeorges assertion that the BLM does not have even "a single officer" to patrol the 19,000 acres sandwiched between Truchas, Chimayó and Ohkay Owingeh. He said ATV users cut fences and destroy crops on land grants and tribal property. "I'm not very happy with Fun Valley", he said, "even if you change the name to El Palacio". Mr. DesGeorges said the issue frustrates the BLM and asked for help and ideas to prevent abuse by ATV users.

Pablo Martinez of Questa said he reads the *Taos News* every week and he has never seen an advertisement for volunteers to swap work for BLM passes. He said the Amigos Bravos have been taking advantage of those passes for three years because they are aware of them. "If you make the rest of community aware, they'll probably show up, too", he said. Mr. Martinez said that while the BLM is trying to create a conservation area south of the Colorado border, north of the border it wants to open land up for gas drilling and mineral development. "Do you want to preserve the area or destroy it?", he asked. "You guys have to decide, but do it equitably — or prepare for the worst because we can deliver that, too".

Alberto Baros from Rio Arriba County asked Mr. DesGeorges to define public lands, expand on the concept of multiple use and explain how that affects wilderness areas. Mr. DesGeorges said land use is subject to the FLPMA, which identifies rights of way, mineral sales, land exchanges, etc., and since 1976 has disallowed the BLM to dispose of vacant public lands at its discretion, directing it instead to plan for "orderly management" of those lands. He said the BLM by law identifies wilderness areas and places them in "interim wilderness management" until Congress decides to release them or make them "full-blown wildernesses".

Representative Miguel Garcia invited Agrapito Candelario to say grace. The committee recessed for lunch at 1:03 p.m. and resumed at 1:52 p.m.

Jicarilla Apache Nation

Representative Miguel Garcia recognized Jicarilla Apache Nation President Levi Pasata and his wife, Verlinda. President Pasata said the Jicarilla Apache Nation faces many of the same issues as land grants; that the Tierra Amarilla Land Grant was deceived because much of its land ended up in private hands. "We call these people thieves", he said. "This land was yours. It rightfully belongs to all of you. It really bothers me when you go up Brazo Canyon...and people chase you off. For lack of a better word, that's bullshit".

President Pasata said land grants need to pressure New Mexico's congressional delegation, though he said Senator Pete Domenici "won't even meet with us". He offered his help to the land grant in dealing with the state and with Washington, D.C.

Noting that her husband, Tommy, is Verlinda Pasata's first cousin, Representative Rodella thanked "Levito" for addressing the committee. She said she noticed when she visited President Pasata in his backyard that county roads had been fenced off by developers and others who have bought property in the area. She said the Rio Arriba County Commission seems unaware of it, but that she hopes the issue can be resolved.

U.S. Congressman Tom Udall

Ms. Ferlic recognized Anna Rael-DeLay from Congressman Tom Udall's Santa Fe office and read aloud a letter from the congressman. Representative Rodella asked staff to summarize the day's discussions and forward it to the congressman and the rest of New Mexico's congressional delegation. Representative Miguel Garcia said staff should relay the minutes from all LGC meetings to the delegation, including Congresswoman Heather Wilson and Congressman Steve Pearce. He directed Ms. Rael-DeLay to ask Congressman Udall to send a staff member to every LGC meeting instead of waiting for a specific request.

Representative Thomas Garcia said the committee should send correspondence directly to Ms. Rael-DeLay to avoid the "horror story" that he experienced when he was the staffer in Congressman Udall's office in charge of land grant issues. He said he often received letters written five to six months earlier that had been mailed to Washington, D.C., instead of to him. He suggested that the committee contact each delegation member to identify the local staffer and mail all correspondence to that person. Representative Miguel Garcia directed staff to do that.

Department of Game and Fish

Patrick Block, assistant director, Department of Game and Fish, and R. J. Kirkpatrick, the department's Wildlife Management Division chief, presented a brief history of the Edward Sargent and W.A. "Bill" Humphries wildlife areas, their economic contributions to the surrounding communities and the possibility of returning them to the land grant communities to which they originally belonged.

Representative Miguel Garcia, citing from a report by former State Historian Robert Torres, said the State of New Mexico owns more than 44,000 acres of former common lands within the Tierra Amarilla Land Grant. He said the committee agrees unanimously that the state should not own property that once was common land and that it should return any such land to the land grant heirs. He urged land grants to get a copy of the report and said the LGC will make it available. He said the LGC got a \$45,000 appropriation to commission certified title abstracts on specific land grants that will show erroneous land transfers. That should give land grants a better opportunity to get back their land, he said.

Mr. Kirkpatrick said the state purchased the 20,208-acre Sargent Wildlife Area in 1975 from the Nature Conservancy. Seventy-five percent of the funds came from the U.S. Wildlife Service; 25% from the Department of Game and Fish. He said the state, using the same funding formula, purchased the 10,950-acre Humphries Wildlife Area in four parts between 1967 and 1980.

Mr. Block recounted the legislative history of acquiring wildlife habitat areas beginning in the 1930s, when Congress enacted legislation providing for federal excise taxes to be distributed to the states for wildlife programs. Because the federal government maintains an ownership interest in those properties, their sale or transfer must be conducted according to their fair market value, he said. If the state gives those properties back to the land grants, it would have to compensate the federal government with similar property or reimburse the federal government for the hunting and fishing license fees that help maintain the land. Also, he said, the state would lose \$11 million a year in federal funding.

Representative Miguel Garcia asked about the economic benefit to the local communities from the Sargent and Humphries wildlife areas. Mr. Kirkpatrick said a memorial was introduced in the 2006 legislative session that requested the information, but he was not sure if the memorial passed. He said hunters contribute significantly to the local economy with purchases of gas, lodging, food, etc.

The committee had a number of questions about hunting licenses, to which Mr. Kirkpatrick gave the following information:

- the department offered 156 elk licenses for this fall, including 41 archery hunts, 70 mature bull hunts and 45 antler-less hunts;
- 78% of this year's elk hunting licenses went to New Mexico residents;
- of the 22% of nonresident elk hunting licenses, 12% went to people using an outfitter;
- all licenses are issued by a random public drawing (lottery) with equal odds for residents and outsiders;
- license fees are as follows:
 - residents: a) cow elk, \$50.00; b) bull elk, \$80.00;
 - nonresidents: a) cow elk, \$315; b) bull elk, \$525; and
 - quality hunts, \$750; and
- most hunts in the area occur on private land or on the Jicarilla Apache Nation.

Representative Hall asked about an incident in 1990 in which locals moved their sheep into the Humphries Wildlife Area to graze, which is forbidden in designated wildlife areas, and law enforcement officers arrested them. Mr. Kirkpatrick called it a "controversial moment" in the history of the area. While he said that the incident "brought to the table the recognition" that local people rely on grazing to make a living, he stressed that designated wildlife areas benefit wildlife and that livestock and grazing are — or at least once were — considered "deleterious to that mission". He said there is growing awareness, especially in the west, that if livestock grazing is done "properly" — i.e., if it is rotational, intense and done according to a seasonal time line — it can be beneficial to elk. He said the Department of Game and Fish has discussed using livestock grazing to improve wildlife forage and has considered a study in a controlled area. He said he is "remiss" in not moving the idea forward more quickly.

Representative Hall said he is wary of moving cows and sheep on to the Humphries Wildlife Area and that the department should meet with the different stakeholders — locals, including people who raise sheep and cows, environmentalists and other interested parties — to

come up with a reasonable agreement. He asked about the "open gate program" by which the department pays private landowners to open their property for hunting and fishing. Mr. Kirkpatrick said the program not only provides economic benefits to local residents, but allows hunters to get to public lands that are otherwise inaccessible because they are surrounded by private property. He said the department wants to amend the rules of the program so that landowners can limit the number of hunters on their property. He also said land grants can now participate in the program.

Representative Miguel Garcia asked about the transfer of 32 acres in Abiquiú, currently owned by the Department of Game and Fish, back to the land grant. Mr. Block said land owned by the agency must be disposed of at fair market value, and he thinks it would require a joint resolution by the House and the Senate. On a motion made by Representative Rodella and seconded by Senator Martinez and Representative Hall, the committee voted unanimously to have staff draft a Senate or House joint resolution to dispose of the Abiquiú property, if necessary. Mr. Block said his department will look at the federal regulations to make sure they are in concurrence with any proposed resolution.

Representative Thomas Garcia expressed concern that the department relies on the "honor system" in determining the number of hunting permits it allows on private property. He said his family only gets five permits while a neighbor with less viable hunting land might get 50.

"There needs to be some type of equity", Representative Thomas Garcia said. "When someone owns acreage with one pond and a strip of land, common sense says there's not enough [elk] population there. For them to get as many permits as someone with better acreage and plenty of ponds and better forage is not fair". Mr. Block acknowledged that "one thousand acres of dirt doesn't provide as much as a hundred acres of bottom land" and assured Representative Thomas Garcia that the department does random spot checks and audits to make sure that landowners are correctly representing their property.

Representative Rodella said many constituents do not draw permits for years at a time. Mr. Block said they might be applying for the most desirable permits, for which there is great competition. "I liken it to a horse race", he said. "If you bet on one race a day and a hundred-to-one long shot, you won't win often. If you bet every race and bet even money, you'll have a better chance to win". Or, he said, it might be "recollection bias". Mr. Block said the department did a study on the issue and found that only 4.5% of applicants draw no permit in four years.

Mr. Block said the department conducts the draw in-house, that it is audited and is not connected to payment. If a credit card is declined, he said, the application is still processed but is not mailed until payment is received. He said the department assesses a \$6.00 processing fee on all applications, not just the successful ones; dollar figures are on the department's web site.

Representative Rodella reprimanded the Department of Game and Fish for not informing the community when it closed the Sargent Wildlife Area for quality hunts. She urged the department to communicate better with stakeholders. Mr. Block said the closures were to prevent harm to people who might wander into the area during a hunt. He said it would be "edging toward inappropriate" not to close the area. Because hunting is second to recreation in priority, he said, the department only closed portions of the area. He said it will get word out earlier next time.

Representative Rodella said that if the Department of Game and Fish cannot return land to the Abiquiú Land Grant, she wants an agreement with the department allowing heirs to use the land for fishing, hunting and other traditional activities. She referred to the Sangre de Cristo Land Grant in southern Colorado, which sued and won for the right for heirs to access public lands within their ancestral borders for traditional uses.

Representative Miguel Garcia said the department should get rid of some exempt jobs and, instead, hire a nonexempt land grant liaison. He then opened the floor to the audience, whose questions and comments included:

- poison introduced into the Rio Costilla to kill rainbow trout, in order to ensure the genetic purity of the Rio Grande cutthroat, has entered the watershed because dead fish are floating three to four miles down river;
 - Mr. Block said the department conducted studies showing that the poison dissipated and that there were no toxins downstream. He suggested that the fish are dying upstream and are traveling down river with the current; and
- the department issues hunting permits on private land with fewer than 50 acres, which puts land grant residents in danger of being shot by hunters;
 - Mr. Block urged the community to make its concerns known so the department can incorporate them in its game commission process.

Land Grant Updates

John Dennis Wells, president of the Tierra Amarilla Land Grant, asked for a moment of silence in honor of four heirs who died recently, including Amador Flores. Mr. Flores won back more than 200 acres of land grant property in the early 1990s from a private developer in Scottsdale that was planning to build a 500-acre subdivision. Mr. Wells noted that the Tierra Amarilla Land Grant organized prior to legislation allowing land grants to register as political subdivisions of the state. Among the topics he discussed were problems with heirs "coming out of the woodwork", dealing with the BLM and real estate brokers run amok. Mr. Wells said he wants all real estate purchases in the Tierra Amarilla Land Grant to be handled through its board, and the land grant should get commission on all sales.

Mr. Wells said the Tierra Amarilla Land Grant originally comprised 670,000 acres of community property under the Treaty of Guadalupe Hidalgo, but that the GAO report incorrectly calls it a private land grant. Today, he said, not more than 10% of the land grant belongs to the heirs and that is a "breach of contract between the United States government and the heirs of the Tierra Amarilla Land Grant and *Méjico*". He said the land grant wants to annex the town of

Cebolla because that is where its southern border begins. He also said heirs cannot afford elk hunting permits in the Sargent Wildlife Area, where hunters pay a high price for trophy elk. "We have the right to get elk and deer for our bellies, not for trophies", he said.

Mario Martinez, vice president and spokesman for the Tierra Amarilla Land Grant, said he wants to correct a misconception about his great-great-grandfather, Francisco Manuel Martinez, who he said was the original grantee of the land grant. Contrary to popular opinion, he said, Francisco Manuel Martinez did not sell the land to Thomas Catron, but deeded it to the settlers in 1847. He said Francisco Manuel Martinez died in 1874 — seven years before Catron acquired the land. He said someone else sold the land to Catron in an unsavory deal and that blaming it on his great-great-grandfather is "poison".

Mr. Martinez said he is happy to hear game and fish representatives acknowledge that the land they manage does not belong to the department, but to the land grant. He said he knows the department did not steal the land, but that it bought land someone else stole. He suggested that the department deed it back to the land grant but continue to manage it as usual. "Keep your money but pay us for the use of the land", he said, adding that elk hunting is "a great business — we don't want it to go away".

Mr. Martinez asked the committee for a "letter of endorsement" so that the Rio Arriba County Commission acknowledges the land grant as a political subdivision. Representative Miguel Garcia said the land grant does not need an endorsement from the committee, but that staff could help it draft a letter to "seek out what's already in the law and use that as testament as to who you are". He said the committee will not abandon the land grant because Tierra Amarilla was "where Thomas Catron and the Santa Fe Ring did their experiments. This was their laboratory". Representative Rodella said she would get a certificate from the House and Senator Martinez, who also represents the district, would get one from the Senate.

Leonard Martinez, president of the San Joaquin del Rio de Chama Land Grant, asked why heirs must pay for permits to harvest wood from national forest land within the boundaries of their land grant. He said representatives from the USFS told him there are areas where heirs can harvest wood for free. But, he said, "we want access to all of them, not just where they tell us". Mr. Martinez said the land grant maintains a cemetery in the national forest but the USFS must do an archaeological study before anyone else can be buried there, and the department still has not gotten funding for the project.

Mr. Martinez said the Jicarilla Apache Nation is 50 years ahead of land grants in getting compensation for land taken from them. Noting that his great-great-great-great-grandmother is Jicarilla, he said there are close ties between Native Americans and Hispanic people whose families have been in northern New Mexico for generations. He called the Jicarilla a "moving force in getting compensation and getting land returned to the *herrerros*". Mr. Martinez said that naming parks, counties, etc., after Thomas Catron and others who stole their land is a "disservice to what we've gone through. To land grant heirs, these men were more than thieves".

Representative Rodella requested that Ms. Rael-DeLay from Congressman Udall's office assist the San Joaquin del Rio de Chama Land Grant in discussions with the USFS about collecting wood. She also suggested that the Department of Finance and Administration (DFA) help the land grant, which has political subdivision status, to get the \$50,000 she appropriated for it to purchase buildings. Senator Martinez pointed out that the Santa Cruz de la Cañada Land Grant partnered with Rio Arriba County, which acts as a fiscal agent for the land grant, but he agreed that the DFA needs to help land grants serve as their own fiscal agents "so we can appropriate money for you guys". Representative Miguel Garcia said the LGC's next meeting in Anton Chico will feature a presentation by the DFA on capital funding projects as they relate to land grants.

Rio Arriba County Commissioner Martinez, who was scheduled to speak, said he did not have a formal presentation because he did not know he was on the agenda. Representative Miguel Garcia apologized to Commissioner Martinez for not being notified and directed staff to be sure to contact all presenters before committee meetings. He said that he and Representative Rodella are particularly concerned that the county is closing public roads and allowing encroachment into some of the road systems. He said the problem is not unique to Rio Arriba County and the Tierra Amarilla Land Grant, but is also happening in Mora County and the Mora Land Grant.

"A rich *tejano* comes in, buys property for millions of dollars and the first thing he does is he fences the public road", Representative Miguel Garcia said. "Then he takes access of the historic trails where the old villagers have historically taken sheep up and down to the high country. He puts his boundaries in historical pathways and creates tension and lots of problems".

Representative Rodella asked specifically about Stagecoach Road in Ensenada, where someone put up a barrier. Commissioner Martinez acknowledged that the county is experiencing encroachment on county roads, but said the section of Stagecoach Road to which Representative Rodella referred has been closed for at least 15 years. Representative Rodella assured Commissioner Martinez that the road has not been closed for 15 years. She also asked him to explain why the county has approved several subdivisions within land grant boundaries.

Commissioner Martinez said only one development has been approved. Another, for a 53-acre subdivision within the boundaries of the Tierra Amarilla Land Grant, is still pending. He said the pending subdivision will generate nearly \$6 million in tax revenue for the county. "How do I explain that the county denied an application that will reward the county with \$1 million per year into the future?", he asked. Representative Rodella, noting that the pending subdivision will have 68 homes, said the land grant "doesn't want this area to be another Taos or Santa Fe where locals are driven out... This will have an impact on the property values of the people native to this area". She said constituents are also concerned about water. She said it is important that the county "engage in a dialogue" with residents affected by new developments.

Representative Rodella said she was perturbed by a comment the commissioner made about the county charging fees to accommodate appropriations for land grants. She said she

would "hate for the county to assess an administrative fee to oversee projects. They're vital to the economy of these rural areas. In the end, the benefit of these projects is to the constituency, yours and mine. I think it would be a disservice to residents of the county". Commissioner Martinez said that land grants would have to pay a 5% or 10% administrative fee to anyone it hires to act as a fiscal agent. He said the county is not doing that and he is not suggesting it should, "but I would just rather have the DFA appropriate money directly to the agencies and not go to the county".

Representative Miguel Garcia asked Commissioner Martinez to summarize the meeting the commissioner attended earlier in the day on grazing in the Valles Caldera National Preserve. The commissioner deferred, saying he had to leave the meeting early because he was on the LGC agenda. Senator Martinez pressed him, asking if the meeting was well attended and if there was consensus. Commissioner Martinez said that the meeting was standing-room-only, but that he left immediately after giving a presentation and could not comment on the outcome.

Public Comment

Mr. Morales said he wants to send a message to the GAO that its report on the history of land grants in New Mexico — which says any loss of land grant property was unintentional — is wrong. Representative Miguel Garcia said the AGO has \$20,000 to respond to the report. He urged land grant members to encourage the attorney general and the governor to fund the AGO's Guadalupe Hidalgo Treaty Division, which will investigate violations of the treaty.

Randy Bevis said he just bought property and title insurance in the Tierra Amarilla Land Grant and wants to make sure the committee has no intention of "subrogating existing private property rights". Representative Miguel Garcia said the committee's intent is to pursue state law and allocate property to land grant communities "in terms of their proper role as empowered ancestral landholding communities of our state". Stating that "there's no question about the appropriateness of that behavior", Mr. Bevis said there remains a "question about the taking of private land". Representative Miguel Garcia responded, "No way is the committee advocating that; rather, in the legislation we enacted we put in provisions that protect private property rights at the behest of the title insurance industry".

Other issues that audience members raised include:

- concerns about wealthy people buying land grant land;
- real estate agents misrepresenting land grant property that they are trying to sell;
- putting a moratorium on land sales within land grant boundaries; and
- that fewer elk hunting permits are going to private landowners while more are going to outfitters.

Representative Miguel Garcia recessed the meeting at 6:11 p.m.

Friday, September 7

Land Grant Tour

The committee and staff took a bus tour of La Puente, Los Ojos, Tierra Wools and the Edward Sargent Wildlife Area.

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